Ct. 96, 56 L. Ed. 208, that the filing of the bankruptcy petition is itself an assumption of jurisdiction is too broad. In the principal case the bankrupt was in possession after the filing of the petition, the property was therefore *in custodia legis,* and the sale by the lien creditors without the sanction of the bankruptcy court was void. *In re Epstein,* 156 Fed. 42, 17 L. R. A. N. S. 465. The court in the principal case declined to follow *Hiscock* v. *Varick Bank,* in which a sale by the pledgee, prior to adjudication and subsequent to the petition, was held valid, on the ground that the pledgee had had title to and possession of the pledged policies more than two years before the filing of the petition. As a matter of fact, the title of the pledgee was not that of absolute owner, but was almost identical with that held by the lien creditor in the principal case. The true ground of distinction would seem to be that the lien property was not *in custodia legis* within the meaning of the rule laid down supra. The *Hiscock* case might, in the light of subsequent decisions, be criticized for its dictum that though the trustee's title vests as of the date of adjudication, it does not "relate back to the commencement of the proceedings in bankruptcy."

BANKRUPTCY—JURISDICTION OF SUPREME COURT.—A direct appeal was made to the Supreme Court of the United States from a decree of the Supreme Court of the District of Columbia, adjudging appellee not a bankrupt. On the ground that this case was not a "controversy arising in bankruptcy proceedings," the writ of error was dismissed for want of jurisdiction. *Swift & Co. et al* v. *Hoover,* (1916), 37 Sup. Ct. —.

The mode of appeal in a given case depends upon whether the case presents a proceeding or step in bankruptcy or whether it is a "controversy arising in bankruptcy proceedings." *Coder* v. *Arts,* 213 U. S. 223, 234. In the latter case alone can there be an appeal to the Supreme Court of the United States as provided by § 24a, since Congress has "failed to give an appellate review in 'proceedings in bankruptcy' * * * from a decree with reference to an adjudication in bankruptcy." "There is a clear distinction between 'controversies arising in bankruptcy proceedings' as mentioned in § 24a, and the 'proceedings in bankruptcy' which by § 24b, the Circuit Court of Appeals are given jurisdiction to superintend and revise 'in matter of law': the former being generally held to embrace questions between the trustee, representing the bankrupt and his creditors, on the one side, and adverse claimants, on the other, and not directly affecting those administrative orders and judgments ordinarily known as 'proceedings in bankruptcy'; and the latter being confined to those questions arising between the bankrupt and his creditors which are the very subject of such administrative orders and judgments, from the petition for adjudication to the discharge, and including the intermediate administrative steps, and such controversies as arise between the parties to the bankruptcy proceedings as are involved in the allowance of claims, fixing their priorities, sales allowances, and other matters to be disposed of summarily." *Thompson* v. *Mauzy,* 174 Fed. 611. An adjudication of bankruptcy or a refusal to adjudicate, *Denver First Nat. Bank* v. *Klug,* 186 U. S. 202, 22 Sup. Ct. 899, 46 L. Ed. 1127; a judgment granting or deny-

ing a discharge, *Thompson* v. *Mauzy,* 174 Fed. 611; an order of allowance or disallowance of costs and expenses of administration—such as trustee's attorney's fees, *Davidson Co.* v. *Friedman,* 140 Fed. 853; a contest over a claim and lien, *In re Loving,* 224 U. S. 183; are "proceedings in bankruptcy" as contra-distinguished from "controversies arising in bankruptcy proceedings." If, however, the sole controversy is about the lien or priority and not about the debt, *Coder* v. *Arts,* supra (dictum), or if the trustee petitions for an order upon a third party, the bankrupt or his voluntary assignee, to surrender property in their possession belonging to the estate, *In re Hecox,* 164 Fed. 823; *Delta National Bank* v. *Easterbrook,* 133 Fed. 521; *Hinds* v. *Morse,* 134 Fed. 231; it is a "controversy arising in bankruptcy proceedings" claiming property in the custody of the bankruptcy court. *Liddon & Bros.* v. *Smith,* 135 Fed. 43; *Audubon* v. *Shufeldt,* 181 U. S. 575, and *Armstrong* v. *Fernandez,* 208 U. S. 324, in which the United States Supreme Court reviewed "proceedings in bankruptcy," are qualified and limited by the decision in *Tefft-Weller & Co.* v. *Munsuri,* 222 U. S. 114.

BANKRUPTCY—PREFERENCE IN ENFORCEMENT OF LIEN.—More than four months before his bankruptcy A gave bills of sale of personalty, of which he retained possession, as collateral security for indorsements by the pledgee, creating an equitable lien in the latter's favor, and within the four months' period sold the property and paid the proceeds to the pledgee. *Held,* that the enforcement, within four months of bankruptcy, of a lien acquired prior to that period did not constitute a preference which could be set aside by the trustee in bankruptcy. *Davis* v. *Billings* (Pa. 1916), 99 Atl. 163.

The enforcement of a lien obtained more than four months prior to the filing of the petition by taking possession and selling within the four months' period (*Woods* v. *Klein,* 223 Pa. St. 256, 265, 72 Atl. 523, 524; *First Nat. Bank* v. *Lanz,* 202 Fed. 117, 120 C. C. A. 275) or by merely taking possession (*Gage Lumber Co.* v. *McEldowney,* 207 Fed. 255, 262, 124 C. C. A. 641) does not constitute an illegal preference; nor does an execution and sale within such period under a judgment recovered prior thereto, and operating as a lien on real estate (*Owen* v. *Brown,* 120 Fed. 812, 57 C. C. A. 180), nor taking possession where required by the state law in order to perfect the lien as against third persons or the trustee (*Thompson* v. *Fairbanks,* 196 U. S. 516, 25 Sup. Ct. 306, 49 L. Ed. 577; *Humphrey* v. *Tatman,* 198 U. S. 93, 25 Sup. Ct. 568, 49 L. Ed. 956; *Coggan* v. *Ward,* 215 Mass. 13, 102 N. E. 336). But a lien created within the four months' period by levy, attachment, or otherwise is invalid under §67f. *Metcalf Bros. & Co.* v. *Barker,* 187 U. S. 165, 23 Sup. Ct. 67, 47 L. Ed. 122; *In re Ferguson,* 95 Fed. 429. If the transfer is recorded within the four months' period and "by law such recording or registering is required" (§60a) within the meaning of *Carey* v. *Donohue,* 240 U. S. 430, 36 Sup. Ct. 386, and *Bunch* v. *Maloney,* 233 Fed. 967, it would, under the circumstances of the principal case, be voidable by the trustee under §60b. *Martin* v. *Commercial Nat. Bank,* 228 Fed. 651, 143 C. C. A. 173; *Deupree* v. *Watson,* 216 Fed. 483, 132 C. C. A. 543. Recording of the instru-